

AMENDED IN SENATE JUNE 26, 2003  
AMENDED IN ASSEMBLY MAY 5, 2003  
AMENDED IN ASSEMBLY APRIL 3, 2003

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1337**

---

**Introduced by Assembly Member Daucher**

February 21, 2003

---

An act to amend Section 56505.2 of, and to add Section 56366.10 to, the Education Code, relating to special education.

LEGISLATIVE COUNSEL'S DIGEST

AB 1337, as amended, Daucher. Special education.

(1) Existing law sets forth a method for providing special education and related services to pupils with exceptional needs. Existing law also permits, under certain circumstances, contracts to be entered for the provision of those services by nonpublic, nonsectarian schools or agencies, as defined. Existing law authorizes a master contract for special education and related services provided by a nonpublic, nonsectarian school or agency only if the school or agency has been certified as meeting specified standards. Existing law sets forth the certification process and procedures for the nonpublic, nonsectarian schools or agencies that seek certification.

This bill would provide that, notwithstanding any other provision of law, a school district, county office of education, or special education local plan area ~~is deemed to have~~ *operating in accordance with an approved local plan has met the state and federal* standards for the provision of special education and related services that are, at a

minimum, equal to the standards applicable to a certified nonpublic, nonsectarian school or agency.

(2) Existing law provides that a hearing officer may not render a decision that results in the placement of an individual with exceptional needs in a nonpublic, nonsectarian school, or in a service for an individual with exceptional needs provided by a nonpublic agency, if the school or agency has not been certified. Existing law requires a hearing officer to consider certain provisions of law relating to nonpublic, nonsectarian schools and agencies, including those relating to certification, during a due process hearing concerning an issue of placement of an individual with exceptional needs in a nonpublic, nonsectarian school or ~~of service~~ services for an individual with exceptional needs provided by a nonpublic, *nonsectarian* agency.

This bill would prohibit a hearing officer from rendering a decision that results in the placement or reimbursement for the placement of an individual with exceptional needs in a nonpublic, nonsectarian school, or in a service or reimbursement for a service for an individual with exceptional needs provided by a nonpublic, nonsectarian agency, if the school district, county office of education, or special education local plan area operates a special education program in accordance with an approved local plan, unless the party seeking placement or service from a nonpublic, nonsectarian school or agency proves, by a preponderance of the evidence, that an appropriate public special education program or service is not available and the program operated by the school district, county office of education, or special education local plan area is not able to provide a free appropriate public education to the individual.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 56366.10 is added to the Education  
 2 Code, to read:  
 3 56366.10. Notwithstanding any other provision of law, a  
 4 district, county office, or special education local plan area  
 5 operating in accordance with an approved local plan is ~~deemed to~~  
 6 ~~have~~ *has met the state and federal* standards for the provision of  
 7 special education and related services that are , at a minimum,

1 equal to the standards applicable to a nonpublic, nonsectarian  
2 school or agency that is certified in accordance with this article.

3 SEC. 2. Section 56505.2 of the Education Code is amended  
4 to read:

5 56505.2. (a) A hearing officer may not render a decision that  
6 results in the placement of an individual with exceptional needs in  
7 a nonpublic, nonsectarian school, or that results in a service for an  
8 individual with exceptional needs provided by a nonpublic,  
9 nonsectarian agency, if the school or agency has not been certified  
10 pursuant to Section 56366.1.

11 (b) A hearing officer shall consider Sections 56365, 56365.5,  
12 56366, and 56366.1 during a due process hearing concerning an  
13 issue of placement of an individual with exceptional needs in a  
14 nonpublic, nonsectarian school, or services for an individual with  
15 exceptional needs provided by a nonpublic, nonsectarian agency.

16 (c) A hearing officer may not render a decision that results in  
17 the placement or reimbursement for the placement of an individual  
18 with exceptional needs in a nonpublic, nonsectarian school, or that  
19 results in a service or reimbursement for the service being  
20 provided to an individual with exceptional needs by a nonpublic,  
21 nonsectarian agency, if the district, county office , or special  
22 education local plan area operates a special education program in  
23 accordance with an approved local plan, unless the party seeking  
24 placement or service from a nonpublic, nonsectarian school or a  
25 nonpublic, nonsectarian agency proves, by a preponderance of the  
26 evidence, that an appropriate public special education program or  
27 service is not available and the program operated by the district,  
28 county office , or special education local plan area is not able to  
29 provide a free appropriate public education to the individual with  
30 exceptional needs.

